

Questions and Responses
to
Cultural Resources Surveys on Private Property
Prepared August 2005 through February 2006
Sacramento District, U.S. Army Corps of Engineers
Civil Works Project Management Branch

The following questions and responses are related to cultural resource surveys, particularly native American resources such as pottery, tools, markings and/or paintings, materials used for construction of shelters and burial sites. Surveys for these resources typically require a qualified Archeologist (or similar discipline) to walk over and conduct physical inspections of property. The Corps' generally conducts its own surveys using either in-house staff or qualified contractors. Physical inspections for cultural surveys cannot be conducted without the property owner granting permission to the Corps (regardless of whether the survey is being done by Corps staff or Corps contractors) to conduct such surveys. Property owner permissions to allow the Cultural surveys on their property usually consists of the owner signing a "Right of Entry for Survey and Inspection" (ROE). All ROE's have an expiration date, which is typically one year after it's signed. Subsequent ROE's may be requested if the significant cultural artifacts are found. In all instances, and as noted in the responses to questions below, the property owner is not obligated or in any way required to sign the ROE. Without a signed ROE (or in some cases, verbal permission), the physical inspections cannot occur. In some cases, verbal agreement is satisfactory to the Corps and the property owner. The ROE specifies the scope and duration of the inspections and requires that any disturbed property be restored to the original condition.

Cultural resource surveys are only being done in areas where the Truckee River Flood Control Study may require land for either flood protection features (such as detention areas, levee's, floodwalls, or river widening) or ecosystem restoration/river restoration features. Areas not likely to be needed for the flood project and associated restoration are not surveyed. It is possible areas that have been surveyed will not be included in the project scope due to changes in plan formulation, project cost limitations, social/political considerations, environmental or cultural significance, or functionality deficiencies.

The questions shown below may, in some cases, refer to the Corps' Programmatic Agreement (PA) between the U.S. Army Corps of Engineers, Sacramento District and the Nevada State Historical Preservation Officer (NV SHPO) executed on 9 August 2005. Please refer to the PA (<http://developer2/internet1/projects/civil/truckeemeadows/docs/cultural/TruckeeMeadowsProgrammaticAgreement.pdf>) for clarification of the background or origin of some of the questions noted below (some questions refer to the PA, in which case the reader may wish to refer back to the PA for an understanding of why the question is posted.)

1. *How does the Corps access my property to conduct surveys?*

Sacramento District staff or its contractors only enter property for cultural resource surveys if we have been permitted such entry by the property owner of record. The Corps' Real Estate office sends out letters with a request for a Right of Entry. The ROE describes what physical activity is likely to occur on the property. Activity beyond what is contained in the ROE cannot be performed

without a subsequent ROE being granted by the property owner to the Corps. If we receive the letter back signed, we have permission. Before we enter someone's property we notify the property owner (including tenants, renters, property managers, or others who may have stewardship over the property but not be the property owner) at least 76 hours in advance. If we arrive on site and are denied permission to enter by either the property owner or tenant (whether or not an ROE is signed), we honor that request and do not enter the property.

2. Stipulation 1.d. of the Programmatic Agreement states up to twenty percent of a property could be subject to investigations. Twenty percent of area to be investigated seems high – NV SHPO doesn't investigate that much area when looking for cultural resources.

This paragraph refers to evaluating a cultural resource for its potential for listing in the National Register of Historic Places. The paragraph states that we shall not conduct testing, meaning subsurface excavation, on area larger than 20 percent of the total size of the resource. That number is high; we will probably never investigate that large a sample. Sample size depends on the perceived cultural complexity represented at the site. If a site appears to represent a single activity such as stone tool manufacturing, the sample size would be smaller. If there are multiple activities represented by the surface assemblage we would sample a larger area. The 20 percent figure only represents the high end limit. This amount was approved by SHPO in all their reviews of the Programmatic agreement and the final signed copy. The sample size is calculated to an areal amount that would provide the data necessary to answer specific research questions, and that sample size is approved by SHPO on a site by site basis.

3. If an archeologically important item is found on my property, then will the owner be compensated for land use losses? Will my property be encumbered? What will the local Native American Tribes' involvement be if something is found?

Most importantly, the property and all rights are the property owners. No one's property will be encumbered nor will the property owner's use of the property be restricted. Frequently, arrowheads are not indicative of an archeology site, and are quite abundant in the western Great Basin. If a significant archeology site, i.e. a burial, or village site is located, we will notify the Corps' Project Manager and recommend avoidance of that location. If for some reason, that particular property is important to the project and contains substantive cultural resources, the project sponsors (not the Corps) will likely negotiate a purchase of the property. The Corps would not recommend nor pursue purchase of property based solely upon cultural resources being present upon such lands. Property purchase must be for the benefit of the congressionally authorized flood control and ecosystem restoration project. Selection of flood control and ecosystem restoration sites is not based upon the presence of cultural surveys. In some instances, and depending upon the significance of a particular resource (for instance, burial mounds), a site that was to be included for flood control or ecosystem restoration would likely be removed from the study to avoid disruption of the resource. The Corps and their sponsors would rather avoid areas containing cultural resources than include them in the project.

The non-federal sponsor is responsible for acquiring real state needed for the project. The sponsor can request the government (Corps of Engineers) acquire real estate on behalf of the sponsor. Occasionally, the sponsor does seek Federal Government help to acquire real estate but such requests are not frequent. If a property owner does not wish to sell their property for flood control or ecosystem restoration project, then this situation must be resolved by the non-federal sponsor. It

is important to remember that no lands would be acquired, nor would project features be targeted towards land containing cultural resources, for their cultural significance. If culturally significance items are found, and the property is not needed for the project due to change in project designs, the property owner retains all rights to sell, develop, or subdivide.

The results of an archeology survey are confidential. The survey report does not get distributed beyond a small group that has a need to know. If a site is found, the property owner will be given a copy of the site record form. There will only be federal or tribal involvement on property that is owned by the non-federal sponsor and that will be used for the flood control – ecosystem restoration project. The Washoe and Pyramid Lake Paiute will be consulted according to the requirements in Stipulation XI of the PA. In spite of the fact that Stipulation XI refers to State or private land, no private property will be involved beyond the level of a surface archeology survey.